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September 16, 1998

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Magalie Roman Salas, Esq.
Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

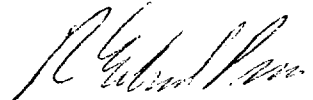
Re: Comments of TMI Communications and Company, L.P.
IB Docket No. 98-148
CC Docket No. 90-337

Dear Ms. Salas:

Transmitted herewith, on behalf of TMI Communications and Company, Limited Partnership ("TMI"), are an original and six copies of its comments in the above-referenced matter. Pursuant to the instructions in the Commission's Notice of Proposed Rule Making in the above-referenced proceeding, diskette copies of these comments are being submitted to Donna Christianson in the International Bureau and to International Transcription Services, Inc.

In the event there are questions concerning this matter, please contact me.

Very truly yours,



R. Edward Price

Enclosure

cc (w/enc.) by hand delivery:
Judy Boley

cc (w/diskette) by hand delivery:
Donna Christianson
International Transcription Services, Inc.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)	
)	
1998 Biennial Regulatory Review —)	IB Docket No. 98-148
Reform of the International Settlements)	
Policy and Associated Filing Requirements)	
)	
Regulation of International)	CC Docket No. 90-337
Accounting Rates)	

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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

COMMENTS OF TMI COMMUNICATIONS AND COMPANY, L.P.

TMI Communications and Company, L.P. ("TMI"),¹ by its attorneys, hereby submits its comments in the above-captioned proceeding pursuant to the *Notice of Proposed Rule Making* ("NPRM"), FCC 98-190, issued on August 6, 1998.

The Commission should use this docket to confirm that the international settlements policy ("ISP") does not apply to regional mobile satellite service (MSS) operators as implied by the agency's December 1996 order in this docket for bearing application of the ISP to global MSS operators. Regional MSS providers, such as TMI, will only have a *de minimis* share of the market for international message telephone service (IMTS) and they do not control bottleneck facilities in the U.S. or elsewhere. Thus, because the structure of the market for international MSS is fully competitive, and because MSS operators, including TMI, must compete for IMTS traffic directly with both terrestrial and cellular radio networks (e.g., for

¹ TMI is a Canadian-licensed MSS operator with a regional service footprint covering the Americas. TMI has applied for authority under the *DISCO II Order*, 12 FCC Rcd 24094 (1997), to provide MSS in the United States. See File No. 730-DSE-P/L-98.

U.S.-Canada and U.S.-Mexico traffic) there is no economic or other policy rationale for applying the ISP. In these circumstances, the Commission should end the uncertainty created by its December 1996 order and confirm that the ISP does not apply to regional MSS either.

Discussion

In *Regulation of International Accounting Rates*, CC Docket No. 90-337, *Fourth Report and Order*, 11 FCC Rcd 20063 (1996) ("*ISP Flexibility Order*"), the Commission determined that greater competition in the international services marketplace warranted flexibility in the application of the ISP. Among several measures, the Commission determined that it would not apply the ISP to global MSS. *See id.* at 20093-94. The Commission stated:

Our ISP is designed to prevent the anticompetitive abuses inherent in a market where international telecommunications are supplied through a bilateral correspondent relationship between national monopoly carriers. There is no clear evidence that the global MSS market necessarily shares these anticompetitive characteristics addressed by the ISP.

Id. at 20094.

On March 10, 1997, TMI filed a Petition for Partial Reconsideration and/or Clarification of the *ISP Flexibility Order*. It asked the Commission to confirm that regional, as well as global, MSS providers are exempt from the ISP. TMI pointed out that, just as with global MSS, "[r]egional MSS ordinarily will not be supplied through bilateral (half-circuit) correspondent arrangements but on an end-to-end (whole circuit) basis." TMI Petition at 2. Hence, due to the competitive market in which global *and* regional MSS will operate, "[t]he Commission's reasons for exempting global MSS operators from the ISP . . . apply equally to regional MSS operators." *Id.*

The Commission has yet to rule on TMI's Petition, and the *NPRM* seeks further

comment on the issues raised in petitions for reconsideration of the *ISP Flexibility Order*. See *NPRM* ¶ 50. TMI therefore reiterates its request that the Commission decline to apply its ISP to regional, as well as global, MSS.

Since TMI filed its Petition in early 1997, competition in the international services marketplace has become even more widespread, and the ISP has become increasingly unnecessary to protect U.S. consumers.² In addition, since the FCC's *ISP Flexibility Order* was adopted, TMI and other parties have proposed to use TMI's MSAT-1 for various U.S. and international service applications. The pendency of these applications has thus made it more urgent for the FCC to confirm that the ISP will not apply to regional MSS so that prospective users of TMI's satellite can plan accordingly.

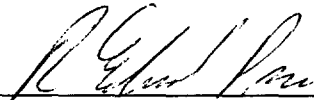
² This is especially so on the U.S.-Canada route. For example, the Commission has authorized numerous U.S. and Canadian owned carriers to provide facilities-based services on this route; it also was among the first to be opened to International Simple Resale (ISR).

Conclusion

For all of the above reasons, TMI requests that the Commission explicitly decline to apply the ISP to the international services of regional MSS providers.

Respectfully submitted,

TMI COMMUNICATIONS
AND COMPANY, L.P.

By: 
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